

1 Counsel listed on the signature page.

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8 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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10 VOIP-PAL.COM, INC., a Nevada
11 corporation,

12 Plaintiff,

13 v.

14 APPLE INC., a California corporation,

15 Defendant.

16 VOIP-PAL.COM, INC., a Nevada
17 corporation,

18 Plaintiff,

19 v.

20 AMAZON.COM, INC., a Delaware
corporation; AMAZON TECHNOLOGIES,
INC., a Nevada corporation,

21 Defendants.

Case No. 5:18-cv-06216-LHK

22

**JOINT CLAIM CONSTRUCTION
AND PREHEARING STATEMENT**

[Patent L.R. 4-3]

Date: September 5, 2019
Time: 1:30 p.m.
Courtroom: 8, 4th Floor
Judge: Honorable Lucy H. Koh

Case No. 5:18-cv-07020-LHK

1 **JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

2 Pursuant to Patent L.R. 4-3 and the Court's January 16, 2019 Case Management Order
3 (Case No. 5:18-cv-06216-LHK, D.I. 53), Plaintiff VoIP-Pal.com, Inc. ("VoIP-Pal") and
4 Defendants Apple Inc. ("Apple") and Amazon.com, Inc. and Amazon Technologies, Inc.
5 ("Amazon") (collectively "Defendants"), through their undersigned counsel of record, hereby
6 submit this Joint Claim Construction and Prehearing Statement:

7 **1. Construction Of Claim Terms On Which The Parties Agree (Pat. L.R. 4-3(a))**

8 Exhibit A, attached hereto, identifies the constructions of terms on which the parties
9 agree.

10 **2. Proposed Construction Of Disputed Terms (Pat. L.R. 4-3(b))**

11 Exhibit B, attached hereto, identifies the claim terms and phrases that the parties have
12 proposed for construction in this case, along with the parties' respective proposed constructions
13 for each disputed term or phrase, identification of all references from the specification or
14 prosecution history that support the parties' constructions, and identification of any extrinsic
15 evidence on which the parties intend to rely either to support or oppose any proposed
16 construction.

17 **3. Identification Of Most Significant And Dispositive Claim Construction Disputes**
18 **(Pat. L.R. 4-3(c))**

19 The parties agree that the Court's construction of the terms listed below will be most
20 significant to the resolution of the case. In addition, the Court's resolution of the first two
21 disputes will be case-dispositive.

22 • "system" (*case dispositive);
23 • "network external to the system"/ "external network" (*case dispositive);
24 • "call controller"
25 • "Internet address"
26 • "processing the second participant identifier"
27 • "participant/user profile"

1 • “attribute”

2 **4. Anticipated Length Of Time For Claim Construction Hearing (Pat. L.R. 4-3(d))**

3 The parties anticipate that the length of time necessary for the Claim Construction
4 Hearing will be two hours, assuming that the Court hears argument on no more than ten disputed
5 terms.

6 **5. Witnesses To Be Called At Claim Construction Hearing (Pat. L.R. 4-3(e))**

7 **VoIP-Pal’s Statement:** VoIP-Pal may submit an declaration from, and may call as a
8 witness at the Claim Construction Hearing, Bill Mangione-Smith, Ph.D. Dr. Smith may provide
9 his expert opinion that a person of ordinary skill in the art at the time of the applications for patent
10 would have interpreted “participant profile/user profile”, “routing message”, “network external
11 to the system/external network”, “communication blocking information”, “call controller”,
12 “communication system node”, and “processing the second participant identifier” in the Patents-
13 in-Suit according to VoIP-Pal’s proposed constructions, as may be set forth in more detail in Dr.
14 Smith’s expert declaration.

15 **Defendants’ Statement:** Defendants do not believe that expert opinion or testimony is
16 appropriate or necessary at the Claim Construction Hearing (or for the Court’s resolution of claim
17 construction issues). Nevertheless, Defendants reserve the right to rely on information obtained
18 through the claim construction discovery process, including expert opinion in response to any
19 opinions offered by VoIP-Pal’s expert.

20 **6. Identification Of Factual Findings Requested From The Court Related To Claim**
21 **Construction (Pat. L.R. 4-3(f))**

22 **VoIP-Pal’s Statement:** VoIP-Pal seeks factual findings that a person of ordinary skill
23 in the art at the time of the applications for patent would have interpreted the “participant
24 profile/user profile”, “routing message”, “network external to the system/external network”,
25 “communication blocking information”, “call controller”, “communication system node”, and
26 “processing the second participant identifier” in the Patents-in-Suit as identified by Dr. Smith.

1 **Defendants' Statement:** Defendants do not believe that the Court needs to make any
2 factual findings (including with respect to the issues identified by VoIP-Pal above) in order to
3 rule on claim construction.

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2 Dated: May 17, 2019
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MALEK MOSS PLLC

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2 **ATTESTATION**
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4 I, Kevin N. Malek, hereby attest that concurrence in the filing of this document has been
5 obtained from counsel for all of the applicable Defendants for whom signatures have been
6 provided.

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8 By: /s/ Kevin N. Malek
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